

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

AMENDED IN ASSEMBLY MARCH 29, 2011

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 438**

**Introduced by Assembly Member Williams**  
**(Coauthor: Assembly Member Fuentes)**

February 14, 2011

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An act to amend ~~Sections 19104 and 19116~~ *Section 19106* of, and to add ~~Section 19104.5~~ *Sections 19106.2, 19106.5, and 19106.8* to, the Education Code, relating to libraries.

### LEGISLATIVE COUNSEL'S DIGEST

AB 438, as amended, Williams. County free libraries: ~~withdrawal notice.~~

Existing law provides that the county boards of supervisors may establish and maintain, within their respective counties, county free libraries pursuant to specified provisions of law. Existing law ~~provides that requires~~ the board of trustees, common council, or other legislative body of any city or the board of trustees of any library district ~~may, on or before January 1st of any year, notify the county board of supervisors that the city or library district no longer desires to be a part of the county free library system, as specified, before giving notice to the county board of supervisors that the city or library district desires to become a part of, or withdraw from, the county free library system, to provide notice of the contemplated action in a specified manner.~~

~~This bill would instead provide that the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district may, on or before January 1st of any year, notify the county board of supervisors that it no longer desires to be part of the county free library system, unless the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district intends to operate the city's or the district's library or libraries with the help of a private contractor that will employ library staff. The bill would require that if the board of trustees, common council, or other legislative body of a city or the board of trustees of a library district intends to operate the city's or the district's library or libraries, with the help of a private contractor that will employ library staff, it must publish notice of the contemplated action, submit the question for voter approval, and, if the withdrawal is approved by the voters, notify the county board of supervisors, as specified. The bill would provide that the notice to withdraw shall not be operative until the next succeeding year. To the extent the bill would impose additional duties on local agencies, the bill would impose a state-mandated local program.~~

~~This bill would make other conforming changes.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

*This bill would revise those notice requirements and would additionally require that notice to be mailed or delivered to persons requesting the notice at least 10 days prior to the public hearing on the matter. The bill would authorize a city or library district to charge a fee that is reasonably related to the costs of providing this requested notice. The bill would prohibit a failure to receive notice pursuant to these provisions from constituting grounds to invalidate the actions of a city or library district for which notice was not provided.*

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~.  
State-mandated local program: ~~yes-no~~.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 19106 of the Education Code is amended*  
2 *to read:*

3     19106. (a) Before any board of trustees, common council, or  
4 other legislative body of any city, or the board of trustees of any  
5 library district, gives notice that the city or library district desires  
6 to become a part of the county free library system, or gives notice  
7 of withdrawal from the system, the board of trustees, common  
8 council, or other legislative body of the city or the board of trustees  
9 of the library district shall ~~publish at least once a week for two~~  
10 ~~successive weeks prior to the giving of either notice, in a newspaper~~  
11 ~~designated by the board of trustees, common council, or other~~  
12 ~~legislative body of the city or the board of library trustees of the~~  
13 ~~library district, and circulating throughout the city or library~~  
14 ~~district, a notice of the contemplated action, giving the date and~~  
15 ~~the place of the meeting at which the contemplated action is~~  
16 ~~proposed to be taken. in all of the following manners:~~

17     (1) *At least once a week for four successive weeks in at least*  
18 *one newspaper of general circulation within the jurisdiction of the*  
19 *city or library district.*

20     (2) *At the entrance of each library in the city or library district*  
21 *for at least 30 days prior to providing notice to the county board*  
22 *of supervisors.*

23     (3) *At the entrance of the city hall or the library district*  
24 *headquarters for at least 30 days prior to providing notice to the*  
25 *county board of supervisors.*

26     (b) *The notice of the contemplated action shall include the date,*  
27 *time, and place of the public hearing at which the contemplated*  
28 *action will be discussed, the identity of the hearing body or officer,*  
29 *and a general explanation of the action to be contemplated.*

30     (c) *In addition to the notice required by this section, the board*  
31 *of trustees, common council, or other legislative body of the city*  
32 *or the board of trustees of the library district may give notice of*  
33 *the public hearing at which the contemplated action will be*  
34 *discussed in any other manner it deems necessary or desirable.*

35     *SEC. 2. Section 19106.2 is added to the Education Code, to*  
36 *read:*

37     19106.2. (a) *The notice required pursuant to Section 19106*  
38 *shall be mailed or delivered at least 10 days prior to the public*

1 hearing to any person who has filed a written request for notice  
2 with either the clerk of the governing body of the city or library  
3 district, or with any other person designated by the governing body  
4 to receive these requests. A city or library district may require  
5 each request for notice to be annually renewed.

6 (b) A city or library district may charge a fee that is reasonably  
7 related to the costs of providing notice by mail or delivery pursuant  
8 to subdivision (a).

9 SEC. 3. Section 19106.5 is added to the Education Code, to  
10 read:

11 19106.5. If the need arises, a public hearing conducted  
12 pursuant to Section 19106 may be continued for multiple days or  
13 time periods and the city or library district shall not be required  
14 to provide new notice for each additional day or time period that  
15 the hearing is continued.

16 SEC. 4. Section 19106.8 is added to the Education Code, to  
17 read:

18 19106.8. Failure to receive notice pursuant to Section 19106  
19 or 19106.2 shall not constitute grounds to invalidate the actions  
20 of a city or library district for which notice was not provided.

21 SECTION 1. ~~Section 19104 of the Education Code is amended~~  
22 ~~to read:~~

23 ~~19104. (a) The board of trustees, common council, or other~~  
24 ~~legislative body of a city or the board of trustees of a library district~~  
25 ~~may, on or before January 1st of any year, notify the county board~~  
26 ~~of supervisors that the city or library district no longer desires to~~  
27 ~~be a part of the county free library system, unless the board of~~  
28 ~~trustees, common council, or other legislative body of a city or the~~  
29 ~~board of trustees of a library district intends to operate the city's~~  
30 ~~or the district's library or libraries with the help of a private~~  
31 ~~contractor that will employ library staff. The notice shall be~~  
32 ~~accompanied by a statement complying with the requirements of~~  
33 ~~Chapter 8 (commencing with Section 54900) of Part 1 of Division~~  
34 ~~2 of Title 5 of the Government Code. The clerk of the county board~~  
35 ~~of supervisors shall file the statement with the county assessor and~~  
36 ~~the State Board of Equalization. Thereafter the city or library~~  
37 ~~district shall cease to participate in the benefits of the county free~~  
38 ~~library system, and the property situated in the city or library~~  
39 ~~district shall not be liable for taxes for county free library purposes.~~

1     ~~(b) If the board of trustees, common council, or other legislative~~  
2     ~~body of a city or the board of trustees of a library district intends~~  
3     ~~to operate the city's or the district's library or libraries, with the~~  
4     ~~help of a private contractor that will employ library staff, the~~  
5     ~~requirements of Section 19104.5 shall apply.~~

6     ~~SEC. 2. Section 19104.5 is added to the Education Code, to~~  
7     ~~read:~~

8     ~~19104.5. (a) If the board of trustees, common council, or other~~  
9     ~~legislative body of a city or the board of trustees of a library district~~  
10    ~~intends to operate the city's or the district's library or libraries,~~  
11    ~~with the help of a private contractor that will employ library staff,~~  
12    ~~the following requirements shall apply:~~

13    ~~(1) At least once a week for two consecutive weeks prior to~~  
14    ~~taking any action, the board of trustees, common council, or other~~  
15    ~~legislative body of the city or the board of trustees of the library~~  
16    ~~district shall publish, in a newspaper designated by it and circulated~~  
17    ~~throughout the city or library district, notice of the contemplated~~  
18    ~~action, giving the date and place of the meeting at which the~~  
19    ~~contemplated action is proposed to be taken.~~

20    ~~(2) Upon approval of the intent to withdraw by the board of~~  
21    ~~trustees, common council, or other legislative body of the city, or~~  
22    ~~the board of trustees of the library district, the question of the~~  
23    ~~decision to withdraw from the county free library system and to~~  
24    ~~use a private contractor that will employ library staff to operate~~  
25    ~~the city's or the district's library or libraries shall be submitted for~~  
26    ~~voter approval at a regularly scheduled election.~~

27    ~~(3) If a majority of voters approve the withdrawal, the board of~~  
28    ~~trustees, common council, or other legislative body of the city or~~  
29    ~~the board of trustees of the library district shall notify the county~~  
30    ~~board of supervisors of approval by the voters to withdraw from~~  
31    ~~the county free library system. The notice shall be accompanied~~  
32    ~~by a statement complying with the requirements of Chapter 8~~  
33    ~~(commencing with Section 54900) of Part 1 of Division 2 of Title~~  
34    ~~5 of the Government Code. The clerk of the county board of~~  
35    ~~supervisors shall file the statement with the county assessor and~~  
36    ~~the State Board of Equalization.~~

37    ~~(b) The notice to withdraw shall not be effective until the~~  
38    ~~succeeding year.~~

39    ~~SEC. 3. Section 19116 of the Education Code is amended to~~  
40    ~~read:~~

1 19116. ~~(a) (1) Sections 19104 and 19105 are not applicable~~  
2 ~~to the withdrawal of a city or library district from the county free~~  
3 ~~library system in Los Angeles County or Riverside County. The~~  
4 ~~legislative body of any city or the board of trustees of any library~~  
5 ~~district, whose jurisdiction is within the County of Los Angeles~~  
6 ~~or the County of Riverside, may notify the board of supervisors~~  
7 ~~for Los Angeles County or Riverside County, as appropriate, that~~  
8 ~~the city or library district no longer desires to be a part of the~~  
9 ~~county free library system, unless the city's legislative body or the~~  
10 ~~library district's board of trustees intends to operate the city's or~~  
11 ~~the district's library or libraries with the help of a private contractor~~  
12 ~~that will employ library staff. The notice shall state whether the~~  
13 ~~city or library district intends to acquire property pursuant to~~  
14 ~~subdivision (c). The board of supervisors shall transmit a copy of~~  
15 ~~the notice to the Los Angeles County Assessor or Riverside County~~  
16 ~~Assessor, as appropriate, the Los Angeles County Auditor or~~  
17 ~~Riverside County Auditor, as appropriate, and the State Board of~~  
18 ~~Equalization.~~

19 ~~(2) If the city's legislative body or the library district's board~~  
20 ~~of trustees intends to operate the city's or the district's library or~~  
21 ~~libraries, with the help of a private contractor that will employ~~  
22 ~~library staff, the requirements of Section 19104.5 shall also apply.~~

23 ~~(b) When a city or library district files a notice pursuant to~~  
24 ~~subdivision (a), it shall remain a member of the county free library~~  
25 ~~system until July 1 of the base year or the date on which property~~  
26 ~~is transferred pursuant to subdivision (c), whichever date is later.~~  
27 ~~Upon ceasing to be a member of the county free library system,~~  
28 ~~the city or library district shall not participate in any benefits of~~  
29 ~~the county free library system, and shall assume the responsibility~~  
30 ~~for the provision of library services within its jurisdiction. Unless~~  
31 ~~otherwise agreed by July 1 of the base year in writing by the Board~~  
32 ~~of Supervisors of Los Angeles County or the Board of Supervisors~~  
33 ~~of Riverside County, as appropriate, and the withdrawing city or~~  
34 ~~library district, an amount of property tax revenue equal to the~~  
35 ~~property tax revenues allocated to the county free library system~~  
36 ~~pursuant to Article 2 (commencing with Section 96) of Chapter 6~~  
37 ~~of Part 0.5 of Division 1 of the Revenue and Taxation Code in the~~  
38 ~~fiscal year prior to the base year and that were derived from~~  
39 ~~property situated within the boundaries of the withdrawing entity~~  
40 ~~shall be allocated to and used to maintain library services by the~~

1 withdrawing entity in the base year and, adjusted forward, in each  
2 fiscal year thereafter at the same time allocations are made pursuant  
3 to Article 2 (commencing with Section 96) of Chapter 6 of Part  
4 0.5 of Division 1 of the Revenue and Taxation Code. This  
5 subdivision shall not apply to property tax revenues that have been  
6 pledged to repay bonded indebtedness of the county free library  
7 system.

8 (c) If there are one or more county library facilities within the  
9 territorial boundaries of the withdrawing entity at the time the  
10 withdrawing entity provides notice pursuant to subdivision (a),  
11 the withdrawing entity shall have the right to acquire any or all of  
12 those facilities from the county and the county shall, no later than  
13 July 1 of the base year, transfer to the withdrawing entity each  
14 facility to be acquired and the personal property therein related to  
15 the provision of library services. If the facility or personal property  
16 was purchased with bond proceeds or other forms of indebtedness,  
17 acquisition shall only take place if the withdrawing entity assumes  
18 any remaining indebtedness and in no way impairs the repayment  
19 thereof. If the withdrawing entity opts not to acquire any facilities  
20 or personal property, the county at its discretion may dispose of  
21 the facilities or personal property or convert the use of those  
22 facilities or personal property, including transferring collections  
23 and other personal property to other sites and converting facilities  
24 to other purposes. If the withdrawing entity opts to acquire any  
25 facilities or personal property, the acquisition prices shall be as  
26 follows unless otherwise provided for by statute or contract:

27 (1) Each county library facility which, for the purposes of this  
28 section, shall include the real property upon which the facility is  
29 located and any fixtures therein and shall not include computer  
30 systems and software, shall be transferred for the lesser of:

31 (A) No cost, if the facility was donated to the county by the  
32 withdrawing entity.

33 (B) The price paid to the withdrawing entity by the county for  
34 the facility, if the county bought the facility from the withdrawing  
35 entity. However, if the county constructed capital improvements  
36 to the facility after it was bought from the withdrawing entity, the  
37 county's total out-of-pocket costs for the capital improvement  
38 excluding any costs for routine repairs, restoration or maintenance,  
39 shall be added to the price.

1     ~~(C) The fair market value of the facility. However, if any portion~~  
2     ~~of the facility was donated to the county by the withdrawing entity~~  
3     ~~or if any moneys were donated by the withdrawing entity towards~~  
4     ~~the county's construction or acquisition of the facility or any~~  
5     ~~portion thereof, the value of the donation shall be subtracted from~~  
6     ~~the fair market value.~~

7     ~~(2) Any personal property within the facility related to the~~  
8     ~~provision of library services, including books and resource~~  
9     ~~materials, computer systems and software, furniture, and~~  
10    ~~furnishings, shall be transferred for the lesser of:~~

11    ~~(A) No cost, if the property was donated to the county by the~~  
12    ~~withdrawing entity.~~

13    ~~(B) The fair market value of the personal property. However,~~  
14    ~~on or before the March 1 preceding the July 1 of the base year, the~~  
15    ~~county librarian may designate collections of resource books and~~  
16    ~~materials that are unique in, and integral to, the county free library~~  
17    ~~system to be special collections. The special collections shall be~~  
18    ~~acquired by the withdrawing entity only upon mutually agreeable~~  
19    ~~terms and conditions.~~

20    ~~(d) If a facility transferred pursuant to subdivision (c) serves~~  
21    ~~residents of surrounding jurisdictions, the board of supervisors~~  
22    ~~governing the county free library system may require, as a~~  
23    ~~condition of transferring the facility, that the library services~~  
24    ~~provided by the withdrawing entity to its residents also be available~~  
25    ~~on the same basis to the residents of the surrounding jurisdictions.~~  
26    ~~However, if the withdrawing entity contributes to the provision of~~  
27    ~~library services from other city funds, or through taxes,~~  
28    ~~assessments, or fees of its residents, the withdrawing entity may~~  
29    ~~provide additional services to its residents. If the requirement to~~  
30    ~~provide regional services is imposed and, unless otherwise agreed~~  
31    ~~in writing by the county and the withdrawing entity by July 1 of~~  
32    ~~the base year, an amount of property tax revenues equal to the~~  
33    ~~property tax revenues derived from property situated in the~~  
34    ~~surrounding jurisdictions which were, in the fiscal year prior to~~  
35    ~~the base year, allocated to the county free library system pursuant~~  
36    ~~to Article 2 (commencing with Section 96) of Chapter 6 of Part~~  
37    ~~0.5 of Division 1 of the Revenue and Taxation Code shall be~~  
38    ~~allocated to and used to maintain library services by the~~  
39    ~~withdrawing entity in the base year and, adjusted forward, in each~~  
40    ~~fiscal year thereafter at the same time other allocations are made~~



1 pursuant to Article 2 (commencing with Section 96) of Chapter 6  
2 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This  
3 subdivision shall not apply to property tax revenues that have been  
4 pledged to repay bonded indebtedness. If a surrounding jurisdiction  
5 subsequently provides notice of its intent to withdraw from the  
6 county free library system pursuant to subdivision (a), on the date  
7 the surrounding jurisdiction ceases to participate in the benefits of  
8 the county free library system pursuant to subdivision (b), the  
9 withdrawing entity shall no longer be required to make library  
10 services available to the residents of the surrounding jurisdiction  
11 and property tax revenues derived from property situated in the  
12 surrounding jurisdiction shall no longer be allocated to the  
13 withdrawing entity pursuant to this subdivision.

14 (e) For purposes of this section, the following terms are defined  
15 as follows:

16 (1) "Base year" means the fiscal year commencing on the July  
17 1 following the December 2 following the date of the notice given  
18 pursuant to subdivision (a) of this section.

19 (2) "Fair market value" means:

20 (A) Any value agreed upon by the withdrawing entity and the  
21 county.

22 (B) If no agreement as to value is reached by the March 1  
23 preceding the July 1 of the base year, the value assigned by an  
24 appraiser agreed upon by the withdrawing entity and the county.

25 (C) If no agreement as to the appointment of an appraiser is  
26 reached pursuant to subparagraph (B) by the April 1 preceding the  
27 July 1 of the base year, the value assigned by an appraiser agreed  
28 upon between the withdrawing entity's appraiser and the county's  
29 appraiser.

30 (D) If no agreement as to the appointment of an appraiser is  
31 reached pursuant to subparagraph (C) by the May 1 preceding the  
32 July 1 of the base year, the value assigned by a state-certified  
33 appraiser designated by the withdrawing entity. The designated  
34 appraiser shall provide the appraisal in writing to the county no  
35 later than the June 1 preceding the July 1 of the base year.

36 (E) The withdrawing entity shall reimburse the county for any  
37 appraisal costs the county incurs in determining the fair market  
38 value pursuant to this section.

39 (3) "Surrounding jurisdictions" means cities and library districts  
40 that are adjacent to the withdrawing entity and tax rate areas in

1 unincorporated areas of the county that are wholly or partially  
2 within the withdrawing entity's sphere of influence, that are within  
3 the county free library system and have no facility within their  
4 territorial boundaries providing library services at the time the  
5 withdrawing entity provides notice pursuant to subdivision (a).  
6 SEC. 4. ~~If the Commission on State Mandates determines that~~  
7 ~~this act contains costs mandated by the state, reimbursement to~~  
8 ~~local agencies and school districts for those costs shall be made~~  
9 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
10 ~~4 of Title 2 of the Government Code.~~